REMARKS

This is a full and timely response to the outstanding final Office Action mailed October 4, 2005. Reconsideration and allowance of the application and presently pending claims 1-17 are respectfully requested.

1. Response to Rejection of Claims 1-14 Under 35 U.S.C. §103(a)

In the Office Action, claims 1-12 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over *Simmonds* (U.S. Patent No. 5,893,116) in view of *Falls* (U.S. Patent No. 5,950,198) in further view of *Amram* (U.S. Patent No. 5,537,586). Claims 13-14 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over *Simmonds* in view of *Falls* in further view of an Official Notice. It is well-established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. *See, e.g., In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

a. Claim 1

As provided in independent claim 1, Applicants claim:

> A method of synchronizing captured data from a recorder with stored data in a storage medium, comprising the steps of:
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> determining whether any set of the captured data and set of the stored data have the same first data attribute, ***wherein a probability calculation is made with respect to whether a set of the captured data is the same as any of the sets of stored data based upon the determination involving a first data attribute***;
>
> ***if a determination has not been made that a set of the captured data is the same as any set of the stored data based upon the probability calculation, further determining whether any captured data sets and stored data sets having the same first attribute have the same second and third data attributes, wherein the probability calculation is updated based upon the determination involving second and third data attributes***; and
>
> ***deleting captured data sets having a probability calculation indicating that a respective data set is the same as one of the stored data sets.***

(Emphasis added).

Applicants respectfully submit that independent claim 1 is allowable for at least the reason that *Simmonds* in view of *Falls* in further view of *Amram* does not disclose, teach, or suggest at least "wherein a probability calculation is made with respect to whether a set of the captured data is the same as any of the sets of stored data based upon the determination involving a first data attribute," "if a determination has not been made that a set of the captured data is the same as any set of the stored data based upon the probability calculation, further determining whether any captured data sets and stored data sets having the same first attribute have the same second and third data attributes, wherein the probability calculation is updated based upon the determination involving second and third data attributes," and "deleting captured data sets having a probability calculation indicating that a respective data set is the same as one of the stored data sets," as recited and emphasized above in claim 1.

Rather, *Simmonds* discloses at most a system where a "mobile server 118 stores local replicas 120 (alternatively referred to as 'replicated resources') of a subset of the network resources 106." Col. 6, lines 57-59. As explained in *Simmonds*, "the replicas 120 stored on the computer 100 become unsynchronized with the network resources 106 stored on the servers 104 because changes have been made to one or both of them." Col. 12, lines 38-42. "In accordance with the invention, the state-based synchronization technique ascertains whether a replica 120 is different from corresponding network resource 106 stored on the server 104 and, if so, propagates changes from the resource to the replica and from the replica to the resource." Col. 12, lines 53-58 (Emphasis added). Accordingly, if the replica 120 is not different from the corresponding network resource 106, *Simmonds* does not perform any actions, much less performing the action of "deleting captured data sets having a probability calculation indicating that a respective data set is the same as one of the stored data sets," as recited in claim 1. (Emphasis added).

Applicants believe that *Falls* also fails to disclose, teach or suggest at least the above-recited features of claim 1. For example, *Falls* discloses at most:

> The present invention can accommodate apparatuses and processes for ***generating file correspondency*** between a source computer and a target computer by utilizing file synchronization and/or file replication. . . . As used herein, the phrase "file correspondency" and its derivatives is intended to mean a state ***wherein a file located on a first computer matches (i.e., is substantially similar to, or, more preferably, is identical to) a second file on a second computer***.

> The phrase "file synchronization" and its derivatives is intended to generally mean herein a process whereby a file, which is disposed at two locations, is changed at one of the locations and these changes are then implemented at the second location. For instance, suppose a file, copies of which are located on two distinct computers, is modified at one location. The process of updating the unedited file at the first location is a form of file synchronization. In contrast, the phrase "file replication", as used herein, is intended to generally mean the process by which a master file (or a portion thereof) existing at a first location, but not a second location, is created at the second location ***so that two identical copies exist*** following the replication.

Col. 3, lines 30-54 (Emphasis added). As such, *Falls* fails to disclose, teach, or suggest at least the step of "deleting captured data sets having probability calculation indicating that a respective data set is the same as one of the stored data sets," as recited in claim 1, since *Falls* generates file correspondency ("wherein a file located on a first computer matches . . . a second file on a second computer"), which is in direct contrast to "deleting captured data sets having a probability calculation indicating that a respective data set is the same as one of the stored data sets." (Emphasis added).

Moreover, *Simmonds* and *Falls* also fail to teach or suggest "determining whether any set of the captured data and set of the stored data have the same first data attribute, wherein a probability calculation is made with respect to whether a set of the captured data is the same as any of the sets of stored data based upon the determination involving a first data attribute" and "if a determination has not been made that a set of the captured data is the same as any set of the stored data based upon the probability calculation, further determining whether any captured data sets and stored data sets having the same first attribute have the same second and third data attributes, wherein the probability calculation is updated based upon the determination involving second and third data attributes," since *Simmonds* and *Falls* describe approaches that attempt to determine whether there are two data files that refer to the same information and need to be updated. Neither approach attempts to determine that there are two data files referring to the same information and then deleting one of the data files. To make such a modification by incorporating teachings from another reference would render the respective references inoperable for their primary and intended purposes. *See In re Gordon*, 733 F.2d 900, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984) (If a reference would be "rendered inoperable for its intended purpose"

when it is modified for use as prior art, then the reference "teaches away" and should not be used). Accordingly, to incorporate the alleged teachings of *Amram* regarding elimination of duplicated records renders the systems taught by the *Simmonds* reference (which is entitled "Accessing Network Resources Using Network Resource Replicator and Captured Login Script for Use When the Computer is Disconnected from the Network") and the *Falls* reference (which is entitled "Processes and Apparatuses for Generating File Correspondency through Replication and Synchronization between Target and Source Computers") inoperable for their intended purposes. (Emphasis added). Therefore, a prima facie case of obviousness has not been established.

Notwithstanding the foregoing, the *Amram* reference fails to remedy the deficiencies of the *Simmonds* and *Falls* references in teaching or suggesting the claimed features. For example, *Amram* states:

> Referring to FIG. 11, the step of detecting and eliminating duplicate records (step 118 in FIG. 3) is applied to two types of potential duplicates. The first type of duplicative record is a record that is received by the system, but contains substantially the same information content as a record that has already been transmitted, (e.g., in an earlier news dispatch). This received record need not be identical to the transmitted record. ***In order to detect this sort of duplicate, a history of records transmitted for each profile is maintained. The history may be maintained for a limited number of transmissions (e.g., the last n issues). Each received record may then be compared with all of the records in this history***. If any received record has a ***similarity value*** with respect to any record in the history that exceeds a predefined threshold γ, ***the record is removed (step 180)***. In this manner, similar records that have been received and transmitted recently are not retransmitted. The comparison may be performed using the SMART vector approach. The SMART system is described in the above-referenced Stalton Chapter, and its concepts are herein incorporated by reference.

Col. 8, lines 36-55 (Emphasis added).

Accordingly, in *Amram*, a received record is compared amongst a history of records to determine if the received record is similar to a previously transmitted record from the history. If the received record is similar, then the received record is removed. As such, *Amram* does not make a determination that the received record is the same as the previously transmitted record. Rather, it makes a determination that

the records are similar (*e.g.*, both records may be articles about the same subject or topic).

> *Amram* further states:
>
> > A second type of redundant record is a ***record that is duplicative*** of other ***records that are received*** during the same interval between transmissions. For example, a similar news item may be carried by two different newswire services on the same day. This type of redundancy is detected (step 182) by ***constructing a matrix of received stories***. The resulting matrix includes entries expressing the similarity of each story and every other story ***received since the last transmission***. Entries in this matrix that do not exceed the predefined similarity threshold γ may then be set to zero, while similarity values exceeding the threshold value γ may be set to one. Cluster analysis may now be performed on this matrix in order to reduce it to a series of disconnected subgraphs. Each node in the disconnected subgraph will be connected to other nodes by an arc having a weight of one. These networks will represent groups of similar records. ***For each group of records, heuristics are applied to the records to determine which story is the preferred story***. These heuristics include the choice of source, the age of the story, and the size of the story. ***Once a preferred story has been chosen, the remaining redundant records are deleted (step 184)***. In generating a newsletter with this method, the subscriber will receive the best available expression of the desired news item. Furthermore, there will be more space in the newsletter for non-duplicative stores.

Cols. 8-9, lines 56-12 (Emphasis added).

Here, it appears that a received record is compared amongst other received records to determine whether duplicative records exist. Note, the received record is not compared against the previously transmitted records in the attempt to find duplicative records. Accordingly, *Amram* seems legally inadequate to teach or suggest whether captured data is the same as any set of stored data.

As a result, a proposed combination of *Simmonds* in view of *Falls* in further view of *Amram* does not seem to produce the claimed subject matter, including the steps of "determining whether any set of the captured data and set of the stored data have the same first data attribute, wherein a probability calculation is made with respect to whether a set of the captured data is the same as any of the sets of stored data based upon the determination involving a first data attribute; if a determination has not been made that a set of the captured data is the same as any set of the stored

data based upon the probability calculation, further determining whether any captured data sets and stored data sets having the same first attribute have the same second and third data attributes, wherein the probability calculation is updated based upon the determination involving second and third data attributes; and deleting captured data sets having a probability calculation indicating that a respective data set is the same as one of the stored data sets."

Thus, claim 1 is not obvious under the proposed combination of *Simmonds* in view of *Falls* in further view of *Amram*, and the rejection should be withdrawn for at least this reason alone.

b. Claims 2-7

Because independent claim 1 is allowable over the cited art of record, dependent claims 2-7 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that the dependent claims 2-7 contain all the steps and features of independent claim 1. Additionally and notwithstanding the foregoing reasons for allowability of claims 2-7, these claims recite further features and/or combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the cited art of record. Accordingly, the rejections to these claims should be withdrawn.

c. Claim 8

As provided in independent claim 8, Applicants claim:

> A computer readable medium for synchronizing captured image data with stored image data in a storage medium, comprising:
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> logic for determining whether any set of the captured and set of the stored image data have a same size attribute, ***wherein a probability calculation is made with respect to whether a set of the captured image data is the same as any of the sets of stored image data based upon the determination involving a size attribute***;
>
> ***logic for further determining whether captured image data sets and stored image data sets having the same size attribute also have at least two other data attributes that are the same if a determination has not been made that a set of the captured image data is the same as any set of the stored image data based upon the probability calculation, wherein the probability calculation is updated based upon the determination involving the at least two other data attributes***; and

> ***logic for deleting captured data image sets having a probability calculation indicating that a respective data set is the same as one of the stored image data sets.***

(Emphasis added).

Applicants respectfully submit that independent claim 8 is allowable for at least the reason that *Simmonds* in view of *Falls* in view of *Amram* does not disclose, teach, or suggest at least "wherein a probability calculation is made with respect to whether a set of the captured image data is the same as any of the sets of stored image data based upon the determination involving a size attribute; logic for further determining whether captured image data sets and stored image data sets having the same size attribute also have at least two other data attributes that are the same if a determination has not been made that a set of the captured image data is the same as any set of the stored image data based upon the probability calculation, wherein the probability calculation is updated based upon the determination involving the at least two other data attributes; and logic for deleting captured data image sets having a probability calculation indicating that a respective data set is the same as one of the stored image data sets," as recited and emphasized above in claim 8.

Rather, *Simmonds* discloses at most a system where a "mobile server 118 stores local replicas 120 (alternatively referred to as 'replicated resources') of a subset of the network resources 106." Col. 6, lines 57-59. As explained in *Simmonds*, "the replicas 120 stored on the computer 100 become unsynchronized with the network resources 106 stored on the servers 104 because changes have been made to one or both of them." Col. 12, lines 38-42. "In accordance with the invention, the state-based synchronization technique ascertains whether a replica 120 is different from corresponding network resource 106 stored on the server 104 and, if so, propagates changes from the resource to the replica and from the replica to the resource." Col. 12, lines 53-58 (Emphasis added). Accordingly, if the replica 120 is not different from the corresponding network resource 106, *Simmonds* does not perform any actions, much less performing the action of "deleting captured data image sets having a probability calculation indicating that a respective data set is the same as one of the stored image data sets," as recited in claim 8. (Emphasis added).

Applicants believe that *Falls* also fails to disclose, teach or suggest at least the above-recited features of claim 8. For example, *Falls* discloses at most:

> The present invention can accommodate apparatuses and processes for ***generating file correspondency*** between a source computer and a target computer by utilizing file synchronization and/or file replication. . . . As used herein, the phrase "file correspondency" and its derivatives is intended to mean a state ***wherein a file located on a first computer matches (i.e., is substantially similar to, or, more preferably, is identical to) a second file on a second computer***.
>
> The phrase "file synchronization" and its derivatives is intended to generally mean herein a process whereby a file, which is disposed at two locations, is changed at one of the locations and these changes are then implemented at the second location. For instance, suppose a file, copies of which are located on two distinct computers, is modified at one location. The process of updating the unedited file at the first location is a form of file synchronization. In contrast, the phrase "file replication", as used herein, is intended to generally mean the process by which a master file (or a portion thereof) existing at a first location, but not a second location, is created at the second location ***so that two identical copies exist*** following the replication.

Col. 3, lines 30-54 (Emphasis added). As such, *Falls* fails to disclose, teach, or suggest at least "logic for deleting captured data image sets having a probability calculation indicating that a respective data set is the same as one of the stored image data sets," as recited in claim 8, since *Falls* generates file correspondency ("wherein a file located on a first computer matches . . . a second file on a second computer"), which is in direct contrast to "deleting captured data sets having a probability calculation indicating that a respective data set is the same as one of the stored image data sets." (Emphasis added).

Moreover, *Simmonds* and *Falls* also fail to teach or suggest "logic for determining whether any set of the captured and set of the stored image data have a same size attribute, wherein a probability calculation is made with respect to whether a set of the captured image data is the same as any of the sets of stored image data based upon the determination involving a size attribute" and "logic for further determining whether captured image data sets and stored image data sets having the same size attribute also have at least two other data attributes that are the same if a determination has not been made that a set of the captured image data is the same as any set of the stored image data based upon the probability calculation, wherein the probability calculation is updated based upon the determination involving the at least two other data attributes," since *Simmonds* and *Falls* describe approaches that attempt

to determine whether there are two data that refer to the same information and need to be updated.

Neither approach attempts to determine that there are two data files referring to the same information and then delete one of the data files. To make such a modification by incorporating teachings from another reference would render the respective references inoperable for their primary and intended purposes. *See In re Gordon*, 733 F.2d 900, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984) (If a reference would be "rendered inoperable for its intended purpose" when it is modified for use as prior art, then the reference "teaches away" and should not be used). Accordingly, to incorporate the alleged teachings of *Amram* regarding elimination of duplicated records renders the systems taught by the *Simmonds* reference (which is entitled "Accessing Network Resources Using Network Resource Replicator and Captured Login Script for Use When the Computer is Disconnected from the Network") and the *Falls* reference (which is entitled "Processes and Apparatuses for Generating File Correspondency through Replication and Synchronization between Target and Source Computers") inoperable for their intended purposes. (Emphasis added). Therefore, a prima facie case of obviousness has not been established.

Notwithstanding the foregoing, the *Amram* reference fails to remedy the deficiencies of the *Simmonds* and *Falls* references in teaching or suggesting the claimed features. For example, *Amram* states:

> Referring to FIG. 11, the step of detecting and eliminating duplicate records (step 118 in FIG. 3) is applied to two types of potential duplicates. The first type of duplicative record is a record that is received by the system, but contains substantially the same information content as a record that has already been transmitted, (e.g., in an earlier news dispatch). This received record need not be identical to the transmitted record. ***In order to detect this sort of duplicate, a history of records transmitted for each profile is maintained. The history may be maintained for a limited number of transmissions (e.g., the last n issues). Each received record may then be compared with all of the records in this history***. If any received record has a ***similarity value*** with respect to any record in the history that exceeds a predefined threshold γ, ***the record is removed (step 180)***. In this manner, similar records that have been received and transmitted recently are not retransmitted. The comparison may be performed using the SMART vector approach. The SMART system is described in the above-referenced Stalton Chapter, and its concepts are herein incorporated by reference.

Col. 8, lines 36-55 (Emphasis added).

Accordingly, in *Amram*, a received record is compared amongst a history of records to determine if the received record is similar to a previously transmitted record from the history. If the received record is similar, then the received record is removed. As such, *Amram* does not make a determination that the received record is the same as the previously transmitted record. Rather, it makes a determination that the records are similar (*e.g.*, both records may be articles about the same subject or topic).

Amram further states:

> A second type of redundant record is a ***record that is duplicative*** of other ***records that are received*** during the same interval between transmissions. For example, a similar news item may be carried by two different newswire services on the same day. This type of redundancy is detected (step 182) by ***constructing a matrix of received stories***. The resulting matrix includes entries expressing the similarity of each story and every other story ***received since the last transmission***. Entries in this matrix that do not exceed the predefined similarity threshold γ may then be set to zero, while similarity values exceeding the threshold value γ may be set to one. Cluster analysis may now be performed on this matrix in order to reduce it to a series of disconnected subgraphs. Each node in the disconnected subgraph will be connected to other nodes by an arc having a weight of one. These networks will represent groups of similar records. ***For each group of records, heuristics are applied to the records to determine which story is the preferred story***. These heuristics include the choice of source, the age of the story, and the size of the story. ***Once a preferred story has been chosen, the remaining redundant records are deleted (step 184)***. In generating a newsletter with this method, the subscriber will receive the best available expression of the desired news item. Furthermore, there will be more space in the newsletter for non-duplicative stores.

Cols. 8-9, lines 56-12 (Emphasis added).

Here, it appears a received record is compared amongst other received records to determine whether duplicative records exist. Note, the received record is not compared against the previously transmitted records in the attempt to find duplicative records. Accordingly, *Amram* seems legally inadequate to teach or suggest whether captured data is the same as any set of stored data.

As a result, a proposed combination of *Simmonds* in view of *Falls* in further view of *Amram* does not seem to produce the claimed subject matter, including the

steps of "logic for determining whether any set of the captured and set of the stored image data have a same size attribute, wherein a probability calculation is made with respect to whether a set of the captured image data is the same as any of the sets of stored image data based upon the determination involving a size attribute; logic for further determining whether captured image data sets and stored image data sets having the same size attribute also have at least two other data attributes that are the same if a determination has not been made that a set of the captured image data is the same as any set of the stored image data based upon the probability calculation, wherein the probability calculation is updated based upon the determination involving the at least two other data attributes; and logic for deleting captured data image sets having a probability calculation indicating that a respective data set is the same as one of the stored image data sets."

Thus, claim 8 is not obvious under the proposed combination of *Simmonds* in view of *Falls* in further view of *Amram*, and the rejection should be withdrawn for at least this reason alone.

d. Claims 9-12

Because independent claim 8 is allowable over the cited art of record, dependent claims 9-12 (which depend from independent claim 8) are allowable as a matter of law for at least the reason that the dependent claims 9-12 contain all the features of independent claim 8. Additionally and notwithstanding the foregoing reasons for allowability of claims 9-12, these claims recite further features and/or combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the cited art of record. Accordingly, the rejections to these claims should be withdrawn.

e. Claim 13

As provided in independent claim 13, Applicants claim:

> A system for synchronizing captured image data from a camera with stored image data in a storage medium, comprising:
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> means for determining whether any two sets of the captured and stored image data have a same size attribute, ***wherein a probability calculation is made with respect to whether a set of the captured image data is the same as any of the sets of stored image data based upon the determination involving a first data attribute***;

> ***means for further determining whether any two sets of captured and stored data having the same size attribute also have at least two other data attributes that are the same if a determination has not been made that a set of the captured image data is the same as any set of the stored image data based upon the probability calculation***; and
>
> ***means for deleting captured data sets having a probability calculation indicating that a respective image data set is the same as one of the stored image data sets***.

(Emphasis added).

Applicants respectfully submit that independent claim 13 is allowable for at least the reason that *Simmonds* in view of *Falls* in further view of *Amram* in further view of an Official Notice does not disclose, teach, or suggest at least "wherein a probability calculation is made with respect to whether a set of the captured image data is the same as any of the sets of stored image data based upon the determination involving a first data attribute; means for further determining whether any two sets of captured and stored data having the same size attribute also have at least two other data attributes that are the same if a determination has not been made that a set of the captured image data is the same as any set of the stored image data based upon the probability calculation; and means for deleting captured data sets having a probability calculation indicating that a respective image data set is the same as one of the stored image data sets," as recited and emphasized above in claim 13.

Rather, *Simmonds* discloses at most a system where a "mobile server 118 stores local replicas 120 (alternatively referred to as 'replicated resources') of a subset of the network resources 106." Col. 6, lines 57-59. As explained in *Simmonds*, "the replicas 120 stored on the computer 100 become unsynchronized with the network resources 106 stored on the servers 104 because changes have been made to one or both of them." Col. 12, lines 38-42. "In accordance with the invention, the state-based synchronization technique ascertains whether a replica 120 is different from corresponding network resource 106 stored on the server 104 and, if so, propagates changes from the resource to the replica and from the replica to the resource." Col. 12, lines 53-58 (Emphasis added). Accordingly, if the replica 120 is not different from the corresponding network resource 106, *Simmonds* does not perform any actions, much less performing the action of "deleting captured data sets having a

probability calculation indicating that a respective image data set is the same as one of the stored image data sets," as described in claim 13. (Emphasis added).

Applicants believe that *Falls* also fails to disclose, teach or suggest at least the above-recited features of claim 13. For example, *Falls* discloses at most:

> The present invention can accommodate apparatuses and processes for ***generating file correspondency*** between a source computer and a target computer by utilizing file synchronization and/or file replication. . . . As used herein, the phrase "file correspondency" and its derivatives is intended to mean a state ***wherein a file located on a first computer matches (i.e., is substantially similar to, or, more preferably, is identical to) a second file on a second computer***.
>
> The phrase "file synchronization" and its derivatives is intended to generally mean herein a process whereby a file, which is disposed at two locations, is changed at one of the locations and these changes are then implemented at the second location. For instance, suppose a file, copies of which are located on two distinct computers, is modified at one location. The process of updating the unedited file at the first location is a form of file synchronization. In contrast, the phrase "file replication", as used herein, is intended to generally mean the process by which a master file (or a portion thereof) existing at a first location, but not a second location, is created at the second location ***so that two identical copies exist*** following the replication.

Col. 3, lines 30-54 (Emphasis added). As such, *Falls* fails to disclose, teach, or suggest at least "means for deleting captured data sets having a probability calculation indicating that a respective image data set is the same as one of the stored image data sets," as recited in claim 13, since *Falls* generates file correspondency ("wherein a file located on a first computer matches . . . a second file on a second computer"), which is in direct contrast to "deleting captured data sets having a probability calculation indicating that a respective image data set is the same as one of the stored image data sets." (Emphasis added).

Moreover, *Simmonds* and *Falls* also fail to teach or suggest "means for determining whether any two sets of the captured and stored image data have a same size attribute, wherein a probability calculation is made with respect to whether a set of the captured image data is the same as any of the sets of stored image data based upon the determination involving a first data attribute" and "means for further determining whether any two sets of captured and stored data having the same size attribute also have at least two other data attributes that are the same if a determination has not been made that a set of the captured image data is the same as

any set of the stored image data based upon the probability calculation," since *Simmonds* and *Falls* describe approaches that attempt to determine whether there are two data that refer to the same information and need to be updated.

Neither approach attempts to determine that there are two data files referring to the same information and then delete one of the data files. To make such a modification by incorporating teachings from another reference would render the respective references inoperable for their primary and intended purposes. *See In re Gordon*, 733 F.2d 900, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984) (If a reference would be "rendered inoperable for its intended purpose" when it is modified for use as prior art, then the reference "teaches away" and should not be used). Accordingly, to incorporate the alleged teachings of *Amram* regarding elimination of duplicated records renders the systems taught by the *Simmonds* reference (which is entitled "Accessing Network Resources Using Network Resource Replicator and Captured Login Script for Use When the Computer is Disconnected from the Network") and the *Falls* reference (which is entitled "Processes and Apparatuses for Generating File Correspondency through Replication and Synchronization between Target and Source Computers") inoperable for their intended purposes. (Emphasis added). Therefore, a prima facie case of obviousness has not been established.

Notwithstanding the foregoing, the *Amram* reference fails to remedy the deficiencies of the *Simmonds* and *Falls* references in teaching or suggesting the claimed features. For example, *Amram* states:

> Referring to FIG. 11, the step of detecting and eliminating duplicate records (step 118 in FIG. 3) is applied to two types of potential duplicates. The first type of duplicative record is a record that is received by the system, but contains substantially the same information content as a record that has already been transmitted, (e.g., in an earlier news dispatch). This received record need not be identical to the transmitted record. ***In order to detect this sort of duplicate, a history of records transmitted for each profile is maintained. The history may be maintained for a limited number of transmissions (e.g., the last n issues). Each received record may then be compared with all of the records in this history***. If any received record has a ***similarity value*** with respect to any record in the history that exceeds a predefined threshold γ, ***the record is removed (step 180)***. In this manner, similar records that have been received and transmitted recently are not retransmitted. The comparison may be performed using the SMART vector approach. The SMART system is described

> in the above-referenced Stalton Chapter, and its concepts are herein incorporated by reference.

Col. 8, lines 36-55 (Emphasis added).

Accordingly, in *Amram*, a received record is compared amongst a history of records to determine if the received record is similar to a previously transmitted record from the history. If the received record is similar, then the received record is removed. As such, *Amram* does not make a determination that the received record is the same as the previously transmitted record. Rather, it makes a determination that the records are similar (*e.g.*, both records may be articles about the same subject or topic).

Amram further states:

> A second type of redundant record is a ***record that is duplicative*** of other ***records that are received*** during the same interval between transmissions. For example, a similar news item may be carried by two different newswire services on the same day. This type of redundancy is detected (step 182) by ***constructing a matrix of received stories***. The resulting matrix includes entries expressing the similarity of each story and every other story ***received since the last transmission***. Entries in this matrix that do not exceed the predefined similarity threshold γ may then be set to zero, while similarity values exceeding the threshold value γ may be set to one. Cluster analysis may now be performed on this matrix in order to reduce it to a series of disconnected subgraphs. Each node in the disconnected subgraph will be connected to other nodes by an arc having a weight of one. These networks will represent groups of similar records. ***For each group of records, heuristics are applied to the records to determine which story is the preferred story***. These heuristics include the choice of source, the age of the story, and the size of the story. ***Once a preferred story has been chosen, the remaining redundant records are deleted (step 184)***. In generating a newsletter with this method, the subscriber will receive the best available expression of the desired news item. Furthermore, there will be more space in the newsletter for non-duplicative stores.

Cols. 8-9, lines 56-12 (Emphasis added).

Here, it appears a received record is compared amongst other received records to determine whether duplicative records exist. Note, the received record is not compared against the previously transmitted records in the attempt to find duplicative records. Accordingly, *Amram* seems legally inadequate to teach or suggest whether captured data is the same as any set of stored data.

As a result, a proposed combination of *Simmonds* in view of *Falls* in further view of *Amram* does not seem to produce the claimed subject matter, including "means for determining whether any two sets of the captured and stored image data have a same size attribute, wherein a probability calculation is made with respect to whether a set of the captured image data is the same as any of the sets of stored image data based upon the determination involving a first data attribute," "means for further determining whether any two sets of captured and stored data having the same size attribute also have at least two other data attributes that are the same if a determination has not been made that a set of the captured image data is the same as any set of the stored image data based upon the probability calculation," and "means for deleting captured data sets having a probability calculation indicating that a respective image data set is the same as one of the stored image data sets."

Regarding the Official Notice that "cameras are well known at the time of the Applicant's invention," it fails to provide the requisite finding to support a conclusion that it would be obvious to incorporate a camera amongst the teachings of the cited references. For example, the Office Action states that it would have been obvious to modify the teachings of both *Simmonds* and *Falls* to substitute a mobile comptuer with a camera as "both can be synchronized with a master database or a server in order to clear the memory and make more space for new data." However, as previously mentioned, the *Simmonds* and *Falls* references are directed to replicating data and do not support the reasoning in the Office Action for modifying the teachings to substitute a camera with another component system.

Therefore, a prima facie case establishing an obviousness rejection by *Simmonds* in view of *Falls* in further view of *Amram* in further view of Official Notice has not been made. Thus, claim 13 is not obvious under the proposed combination, and the rejection should be withdrawn for at least this reason alone.

f. Claim 14

Because independent claim 13 is allowable over the cited art of record, dependent claim 14 (which depends from independent claim 13) is allowable as a matter of law for at least the reason that the dependent claim 14 contain all the features and elements of independent claim 13. Additionally and notwithstanding the foregoing reasons for allowability of claim 14, this claim recites further features

and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record. Accordingly, the rejections to these claims should be withdrawn.

2. New Claims 15-17

Claims 15-17 are believed allowable over the cited art for at least the reason that the feature "wherein non-calculated data attributes are considered in making the probability calculation before calculated data attributes are considered" is not taught or suggested by the cited art. For example, *Falls*, appears to check for replications between a source and target by performing a key comparison and if the keys match, comparing the file size and bytes of the file having the matching key with the source file. *See* col. 10, lines 37-45. Accordingly, *Falls* teaches an approach that is opposite than the feature of considering non-calculated data attributes before considering calculated data attributes. For at least this reason, claims 15-17 should be allowed.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

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